

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

DYLAN RAY MORGAN,

Petitioner,

v.

CIVIL ACTION NO. 5:18-cv-01359

MIKE FRANCIS,

Respondent.

MEMORANDUM OPINION AND ORDER

On October 16, 2018, the Petitioner, proceeding *pro se*, filed his *Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody* (Document 2). Also before the Court is the *Respondent's Motion to Dismiss for Failure to Exhaust* (Document 13) filed on November 30, 2018.

By *Standing Order* (Document 4) entered on October 18, 2018, this action was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On May 31, 2019, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 17) wherein it is recommended that this Court grant the *Respondent's Motion to Dismiss for Failure to Exhaust* (Document 13), dismiss the Petitioner's *Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody* (Document 2), and remove this matter from the Court's docket.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by June 17, 2019, and none were filed by either party. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the *Respondent's Motion to Dismiss for Failure to Exhaust* (Document 13) be **GRANTED**, the Petitioner's *Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody* (Document 2) be **DISMISSED**, and this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: July 1, 2019



IRENE C. BERGER

UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA